

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BRIAN SWEENEY,

Plaintiff,

08-CV03192 (PAC)(RLE)

-against-

ANSWER

LONG ISLAND RAIL ROAD COMPANY,

Defendant.
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S I R S :

Defendant, The Long Island Rail Road Company ("LIRR"), s/h/a LONG ISLAND RAILROAD COMPANY, by its attorney, MARK D. HOFFER, ESQ., answering the verified complaint of plaintiff, alleges, upon information and belief, as follows:

1. Denies the allegations contained in paragraphs "1" and "9" and refers all questions of law to this Court for its determination.
2. Denies the allegations contained in paragraph "5" except admits that on or about November 8, 2007, the defendant employed the plaintiff.
3. Denies the allegations contained in paragraph "6" except admits that on or about November 8, 2007 and at all times hereinafter mentioned, the defendant maintained and controlled railroad operations which included the West Hempstead Branch located in West Hempstead, NY.
4. Denies the allegations contained in paragraphs "7", "8" and "10" of the plaintiff's complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

5. Any injuries suffered by plaintiff were caused solely by his own negligence and

not by any negligence of the answering defendant.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

6. Any injuries suffered by plaintiff were caused, in part, by his own negligence, and any recovery by plaintiff must be diminished in proportion to that part of his injuries attributable to his own negligence.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

7. Any injuries suffered by plaintiff were not caused by a negligent act or omission of the answering defendant or any individual acting under its direction or control.

WHEREFORE, defendant demands judgment of this court dismissing the action in its entirety, plus the costs and disbursements of the action.

Dated: Jamaica, NY
April 24, 2008

Yours, etc.,

MARK D. HOFFER

Vice President/General Counsel & Secretary
Attorney for Defendant

By: Karla R. Alston
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